

ESTTA Tracking number: **ESTTA379164**

Filing date: **11/17/2010**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

| | |
|---------------------------|--|
| Proceeding | 91196845 |
| Party | Defendant Boi Na Braza, Inc. |
| Correspondence Address | REMY M. DAVIS THOMPSON & KNIGHT LLP 1722 ROUTH ST STE 1500 DALLAS, TX 75201-2532 UNITED STATES |
| Submission | Answer |
| Filer's Name | Remy M. Davis |
| Filer's e-mail | remy.davis@tklaw.com |
| Signature | /Remy M. Davis/ |
| Date | 11/17/2010 |
| Attachments | 10-11-17 Answer.pdf (4 pages)(1509752 bytes) |

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the Matter of Pending Application Serial No. 77/779,339

Application Filing Date: July 13, 2009

Publication Date: June 22, 2010

| | | |
|-----------------------------|---|-------------------------|
| Terra Sul Corporation a/k/a | § | |
| Churrascaria Boi Na Brasa | § | |
| | § | |
| Petitioner, | § | |
| | § | |
| vs. | § | Opposition No. 91196845 |
| | § | |
| Boi Na Braza, Inc., | § | |
| | § | |
| Applicant. | § | |

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

Applicant Boi Na Braza, Inc. ("Applicant"), having a principal place of business at 4025 William D. Tate, Grapevine, Texas 76051, hereby files this Answer to the Notice of Opposition. Applicant does not waive, and expressly preserves, all applicable defenses, including, but not limited to, those defenses allowed under Rule 12 of the Federal Rules of Civil Procedure. Subject to the above, Applicant states as follows:

1. Applicant is without sufficient knowledge to form a belief as to the truth of the allegations of Paragraph 1 of the Notice of Opposition and consequently denies the same.
2. Applicant is without sufficient knowledge to form a belief as to the truth of the allegations of Paragraph 2 of the Notice of Opposition and consequently denies the same.
3. Applicant admits the allegations of Paragraph 3 of the Notice of Opposition, except that Applicant specifically notes that its pending application is made with a request for a concurrent use registration and in said application, Applicant has clearly set forth the areas of geographic use in which it is entitled to use its BOI NA BRAZA mark.

4. Applicant is without sufficient knowledge to form a belief as to the truth of the allegations of Paragraph 4 of the Notice of Opposition and consequently denies the same.

5. Applicant is without sufficient knowledge to form a belief as to the truth of the allegations of Paragraph 5 of the Notice of Opposition and consequently denies the same.

6. Applicant is without sufficient knowledge to form a belief as to the truth of the allegations of Paragraph 6 of the Notice of Opposition and consequently denies the same.

7. Applicant is without sufficient knowledge to form a belief as to the truth of the allegations of Paragraph 7 of the Notice of Opposition and consequently denies the same.

8. Applicant denies the allegations of Paragraph 8 of the Notice of Opposition.

9. Applicant denies the allegations of Paragraph 9 of the Notice of Opposition.

10. Applicant admits that U.S. Reg. No. 2,534,608 ("the '608 Registration") for the mark BOI NA BRAZA was cancelled pursuant to Cancellation No. 92047056; Applicant notes, however, that the '608 Registration was not a concurrent use registration and is therefore not identical to Applicant's pending application.

WHEREFORE, Applicant respectfully requests that the Notice of Opposition be denied and Applicant's Application be allowed to register as a Concurrent Use Registration.

Dated: November 17, 2010

Respectfully submitted,

BOI NA BRAZA, INC.

By: Remy M. Davis
Remy M. Davis
Herbert J. Hammond
Deborah L. Lively

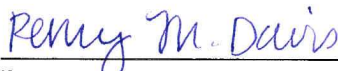
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Attorneys for Applicant
Boi Na Braza, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing APPLICANT'S ANSWER TO NOTICE OF OPPOSITION is being served upon Petitioner's attorney of record, Eamon J. Wall, by certified mail, return receipt requested, on this 17th day of November, 2010, in an envelope addressed to:

Eamon J. Wall
Wall & Tong, LLP
25 James Way
Eatontown, New Jersey 07724



Remy M. Davis